

The House Committee on Ways and Means offers the following substitute to HB 453:

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 14 of Title 2 of the Official Code of Georgia Annotated, relating to sale of agricultural and forest products, so as to provide limited liability for certain agritourism professionals offering agritourism activities under certain circumstances; to provide for legislative findings; to provide for definitions; to provide for exceptions; to provide for warnings and notices; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 14 of Title 2 of the Official Code of Georgia Annotated, relating to sale of agricultural and forest products, is amended by adding a new article to read as follows:

"ARTICLE 8

2-14-160.

The General Assembly recognizes that persons who patronize farms or ranches offering agritourism activities may incur injuries as a result of inherent risks involved in such activity. The General Assembly also finds that this state and its citizens derive numerous economic, educational, environmental, cultural, and personal benefits from such activity. The General Assembly finds, determines, and declares that this article is necessary for the immediate preservation of the public peace, health, and safety. It is, therefore, the intent of the General Assembly to encourage agritourism activities by limiting the civil liability of agritourism professionals involved in such activities.

2-14-161.

As used in this article, the term:

(1) 'Agritourism' means any activity carried out on a farm or ranch that allows members of the public, for recreational, entertainment, or educational purposes, to view or enjoy the agricultural property, its resources, the history or culture of the agricultural property

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1 or those real properties in its vicinity, or machinery used for agricultural purposes. An
2 activity is an agritourism activity whether or not the participant paid to participate in the
3 activity.

4 (2) 'Agritourism professional' means a person, actual or corporate, who, for educational
5 benefit, financial gain, or consideration, leads, hosts, or supervises agritourism activities
6 or owns, leases, or rents agricultural property on which agritourism activities occur. Such
7 term shall include also all agents, employees, and representatives of the agritourism
8 profession.

9 (3) 'Inherent risks of agritourism activity' means those dangers or conditions associated
10 with agritourism activities that are known to reasonable persons. Such dangers include,
11 but are expressly not limited to, surface and subsurface conditions; natural conditions of
12 land, vegetation, and waters; the behavior of wild or domestic animals; the ordinary
13 dangers of structures or equipment ordinarily used in farming and ranching operations;
14 and the potential of a participant to act in a negligent manner that may contribute to the
15 injury to the participant or others.

16 (4) 'Participant' means any person who enters the farm or ranch location, singly or with
17 a group, to engage in agritourism activities.

18 2-14-162.

19 (a) Except as provided in subsection (b) of this Code section, an agritourism professional
20 shall not be liable for an injury to or the death of a participant resulting from such
21 participant's failure to follow instructions given by the agritourism professional, failure to
22 exercise reasonable caution while engaging in the agritourism activity, or the inherent risks
23 of agritourism activities.

24 (b) Nothing in subsection (a) of this Code section shall prevent or limit the liability of an
25 agritourism professional if that agritourism professional:

26 (1) Commits an act or omission of gross negligence that injures the participant;

27 (2) Commits an act or omission that causes an injury to the participant and constitutes
28 the willful or wanton disregard for the safety of the participant;

29 (3) Intentionally injures the participant;

30 (4) Provides equipment or machinery to the participant which the agritourism
31 professional knows or should have known is faulty, and such equipment or machinery is
32 faulty to the extent that it causes injury to the participant;

33 (5) Fails to make reasonable and prudent efforts to determine the ability of the
34 participant to engage safely in the agritourism activity and to exercise ordinary care for
35 the participant's safety based on the participant's representations of his or her ability;

(6) Permits the participant to interact with a domesticated or wild animal without first making reasonable and prudent efforts to determine that the participant knows of the risks associated with that type of domesticated or wild animal; or

(7) Owns, leases, rents, or otherwise is in lawful possession and control of the land or facilities upon which the participant sustains injuries because of a dangerous latent condition which is known or should have been known to the agritourism professional.

(c) Nothing in this Code section shall be interpreted to bar or limit any product liability claim arising under the laws of Georgia.

2-14-163.

(a) Every agritourism professional shall post and maintain signs which contain the warning notice specified in subsection (b) of this Code section. Such signs shall be placed in a clearly visible location at the entrance of the agritourism activity and arenas where the agritourism professional conducts agritourism activities. The warning notice specified in subsection (b) of this Code section shall appear on the sign in black letters, with each letter to be a minimum of one inch in height. Every written contract entered into by an agritourism professional for the providing of professional services, instruction, or the rental of equipment to a participant, whether or not the contract involves agritourism activities on or off the location or site of the agritourism professional's or the agritourism activity sponsor's business, shall contain in clearly readable print the warning notice specified in subsection (b) of this Code section.

(b) The signs and contracts described in subsection (a) of this Code section shall contain the following warning notice:

'WARNING: Under Georgia law, Article 8 of Chapter 14 of Title 2 of the Official Code of Georgia Annotated, an agritourism professional is not liable for an injury to or the death of a participant in agritourism activities resulting from the inherent risks of agritourism activities, including, but not limited to, surface and subsurface conditions; natural conditions of land, vegetation, and waters; the behavior of wild or domestic animals; and the ordinary dangers of structures or equipment ordinarily used in farming and ranching operations.'

(c) Failure to comply with the requirements concerning warning signs and notices provided in this Code section shall prevent an agritourism activity sponsor or agritourism professional from invoking the privileges of immunity provided by this article."

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.